

Message Text

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43

ORIGIN PM-03

INFO OCT-01 EUR-12 ISO-00 DODE-00 L-02 SS-15 MC-02 OMB-01

EB-07 COME-00 TRSE-00 /043 R

DRAFTED BY PM/SAS:RWSMITH:RG

APPROVED BY PM:GSVEST

EUR/EE - MR. GILMORE

EUR - MR. ARMITAGE

DOD/DSAA - MR. BETTELEY

DOD/ISA - CDR. STEELE

L/PM - MR. BOREK

PM/SAS - MR. LADD

C - MR. SHINN

S/S - MR. ORTIZ

----- 041192

P R 161830Z APR 75

FM SECSTATE WASHDC

TO AMEMBASSY BELGRADE PRIORITY

INFO USCINCEUR

C O N F I D E N T I A L STATE 086964

E.O. 11652: GDS

TAGS: MASS, YO

SUBJECT: FMS CASE YU-UDF

REF: A) BELGRADE 1711 B) STATE 74369 C) BELGRADE 1563

1. FOLLOWING IS COMPLETE CHRONOLOGY OF EVENTS CONCERNING
FMS CASE YU-UDF AS KNOWN HERE:

A) ORIGINAL LOA FOR AMMUNITION WAS DATED 18 OCTOBER 1972.
THAT DATE WAS SUBSEQUENTLY AMENDED TO 22 DECEMBER 1972 TO
ACCOMMODATE GOY REQUEST THAT IT BE PERMITTED TO PAY 50 PER-

CENTDOWN AND 50 PERCENT WITHIN 90 DAYS OF ACCEPTANCE.
AMOUNT OF LOA WAS \$716,539.32. EXPIRATION DATE OF LOA, AS
AMENDED, WAS 2 APRIL 1973. IN RESPONSE TO GOY REQUEST
DATED 29 MARCH 1973, EXPIRATION DATE WAS EXTENDED TO 1 MAY
1973. GOY ACCEPTED LOA ON 30 APRIL 1973. THE 50 PERCENT
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DOWNPAYMENT WAS DEPOSITED ON 22 MAY 1973.

B) BY LETTER OF 31 MAY 1973, ASSISTANT MILITARY ATTACHE OF
YUGOSLAV EMBASSY ADVISED DEPARTMENT OF THE ARMY THAT HIS

OFFICE WAS UNDER INSTRUCTIONS FROM THE YUGOSLAV ARMY "TO STOP ACTION OF SHIPPING THE AMMUNITION 8 INCH, M106 WITH THE ALL ELEMENTS STATED IN THE CASE YU-UDF ITEM 1, 2, 3, 4, AND 5", BECAUSE "THEY ARE NOT SURE IF WE WOULD BE ABLE USE THAT AMMUNITION" WITHOUT CERTAIN FUZES. HE ADDED THAT "BECAUSE OF THE ABOVE MENTIONED WE WOULD LIKE TO TEST THAT AMMUNITION AT FIRST, AND AFTER THAT MAKE THE DECISION FOR

BUYING THE REASONABLE (SIC) QUANTITY". HE REQUESTED A PRICE QUOTATION FOR SMALL QUANTITIES OF AMMUNITION AND CHARGES/PRIMERS FOR TESTING PURPOSES AND ASKED THAT THESE ITEMS BE PROVIDED FROM A US ARMY DEPOT IN EUROPE.

C) THREE OF THE FOUR ITEMS REQUESTED BY GOY FOR TESTING WERE AVAILABLE AT MIESAU ARMY DEPOT IN FRG; THE FOURTH WAS AIRSHIPPED FROM STOCKS IN THE US. YUGOSLAV FREIGHT FORWARDER SCHEDULED ALL ITEMS FOR PICKUP ON 21 SEPTEMBER 1973.

D) SHIPMENT WAS SUBSEQUENTLY DELAYED BY CLEARANCE REQUIREMENTS FROM FRG AND AUSTRIAN CUSTOMS OFFICIALS. FRG REQUESTED EXPLANATION FROM GOY REGARDING INTENDED USE OF AMMUNITION. WE DO NOT KNOW ACTUAL DATE WHEN GOY RECEIVED TEST AMMUNITION.

E) ON 21 JANUARY 1975, YUGOSLAV MILITARY ATTACHE ADVISED AMC THAT TEST OF AMMUNITION HAD BEEN COMPLETED WITH SATISFACTORY RESULTS AND THAT GOY NOW WISHED ORIGINAL SHIPMENT TO BE DELIVERED.

F) IN A LETTER OF 5 MARCH 1975, AMC FORWARDED TO THE YUGOSLAV MILITARY ATTACHE AN AMENDMENT DATED 20 FEBRUARY 1975 TO CASE YU-UDF WHICH PROVIDED FOR PRICE INCREASE FROM \$716,539.32 TO \$1,217,354.68 AND REQUESTED PAYMENT IN AMOUNT OF \$859,085.02 (\$1,217,354.68 MINUS DOWNPAYMENT OF \$358,269.66 PREVIOUSLY MADE). AMC LETTER POINTED OUT THAT DURING PERIOD OF DELAY FOR TESTING, PRICE OF AMMUNITION HAD RISEN APPROXIMATELY 81 PERCENT. LETTER ALSO POINTED OUT THAT USG WAS, BY LAW, PROHIBITED FROM INCURRING A LOSS IN SALES TO FOREIGN COUNTRIES AND THAT FMS CUSTOMER MUST THEREFORE BEAR PRICE INCREASES INCURRED IN PROVIDING DEFENSE MATERIALS.

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G) IN A LETTER OF 11 MARCH 1975, AMC RESPONDED TO SPECIFIC QUESTIONS RAISED BY GOY REGARDING AGE OF AMMUNITION TO BE SHIPPED, NUMBER OF LOTS INVOLVED, AND WEIGHT AND CUBE DATA.

2. FOLLOWING COMMENTS ARE KEYED TO QUESTIONS RAISED
PARA 2, REF C:

A) ANSWERED BY CHRONOLOGY PARA 1 ABOVE.

B) USG DID NOT AUTHORIZE DELAY FOR TESTING IN SENSE THAT PROVISION WAS MADE TO EXTEND INDEFINITELY TERMS AND CONDITIONS OF ORIGINAL LOA. WE SIMPLY ACCEDED TO GOY REQUEST TO STOP SHIPMENT PENDING TEST PROGRAM AND FINAL GOY DECISION TO BUY THE AMMUNITION. SOME OF THE DELAY WHICH APPARENTLY RESULTED IN COMPLETION OF TESTING BY

YUGOSLAVS MAY BE ATTRIBUTABLE TO DELAYS IN RECEIPT OF TESTING QUANTITIES BECAUSE OF FRG/AUSTRIAN CUSTOMS REQUIREMENTS. THESE ADMINISTRATIVE OBSTACLES STEMMED FROM THE SPECIFIC YUGOSLAV REQUEST THAT THE SMALL QUANTITIES OF AMMUNITION FOR TESTING PURPOSES BE SUPPLIED FROM US ARMY EUROPEAN DEPOT SOURCES, PRESUMABLY TO ECONOMIZE ON TRANSPORTATION COSTS.

C) POINT HERE IS THAT ONCE GOY ASKED USG TO STOP SHIPMENT, AMMUNITION THEN ON HAND WHICH WOULD HAVE GONE TO GOY WERE IT NOT FOR GOY LETTER OF 31 MAY 73 WAS USED FOR OTHER TRANSACTIONS AND PURPOSES, AND REPLENISHED AS NECESSARY. IT IS NOT POSSIBLE TO KEEP STOCK IN INVENTORY FOR A CUSTOMER FOR INDEFINITE PERIODS WHERE TITLE HAS NOT BEEN TRANSFERRED. NOTWITHSTANDING 50 PERCENT DOWNPAYMENT IN THIS CASE, ITEM REPLACEMENT COST MUST BE CHARGED AT TIME ITEM IS SHIPPED FROM INVENTORY AND TITLE IS TRANSFERRED. THE LOA AMENDMENT OF 20 FEBRUARY 1975 REFLECTS CURRENT REPLACEMENT COST FOR THE AMMUNITION NOW IN US ARMY INVENTORY.

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3. UPSHOT OF ALL THIS IS THAT UNFORTUNATELY WE CAN DO NOTHING TO RESTORE 1972 PRICE. US ARMY MUST PAY PRICE QUOTED IN RECENT AMENDMENT TO LOA FOR REPLENISHMENT OF STOCKS SOLD TO FMS CUSTOMERS. TO REVERT TO 1972 PRICE WOULD MEAN LOSS TO USG FOR WHICH THERE IS NO STATUTORY AUTHORITY. SPECIFICALLY, SECTION 21 OF FOREIGN MILITARY SALES ACT REQUIRES FMS CASH PURCHASERS TO AGREE "TO PAY NOT LESS THAN THE VALUE THEREOF IN UNITED STATES DOLLARS." SINCE AMMUNITION WAS FROM U.S. ARMY STOCK, "ACTUAL VALUE" IS BASED ON REPLACEMENT COST AT TIME ORDER FILLED, I.E., 1975 RATHER THAN 1972 VALUE. KISSINGER

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